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Attorney for Plaintiff  
ONEBEACON INSURANCE COMPANY

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

ONEBEACON INSURANCE COMPANY,

Plaintiff(s),

v.

HAAS INDUSTRIES, INC.,

Defendant(s).

Case No: C-07-3540 BZ (MEJ)

**PLAINTIFF'S NOTICE OF MOTION AND  
MOTION FOR SUMMARY JUDGMENT  
OR, IN THE ALTERNATIVE, FOR  
PARTIAL SUMMARY JUDGMENT  
[FRCP 56(a)(b)]**

Date: April 2, 2008  
Time: 10:00 a.m.  
Courtroom: Courtroom G

TO DEFENDANT HAAS INDUSTRIES, INC. AND TO GEOFFREY W. GILL, ITS  
ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN that on April 2, 2008, at 10:00 a.m. in Courtroom G of the  
above-entitled Court, located at 450 Golden Gate Avenue, San Francisco, California, plaintiff  
ONEBEACON Insurance Company will and hereby does move the Court for summary judgment  
or, in the alternative, for partial summary judgment on the ground that there is no genuine issue  
of material fact and that the moving party is entitled to judgment as a matter of law for the reason  
that:

(1) Plaintiff has established a *prima facie* case under the Carmack amendment to the  
Interstate Commerce Act in that its insured was the owner of freight tendered to the defendant  
for transportation in good order and condition, that a portion of that freight was never delivered,

1 and that the value of the freight exceeded the sum of \$104,617.00, the rights to which the  
2 plaintiff is entitled to recover in subrogation. 49 U.S.C. 14706(a).

3 In the alternative, plaintiff moves for partial summary judgment on the ground that there  
4 is no genuine issue of material fact that and that the plaintiff is entitled to summary adjudication  
5 in its favor of the defendants' sixteenth affirmative defense that its liability is limited for the  
6 reason that defendant failed to satisfy the requirements of 49 U.S.C. 14706(c)(1) and *New York,*  
7 *New Haven & Hartford R.R. v. Nothnagle*, 346 U.S. 128, 73 S.Ct. 986, 97 L.Ed. 1500 (1953)

8 This motion is based upon this Notice of Motion and Motion, the accompanying  
9 Memorandum of Points and Authorities, the declarations of James Attridge, Gregory Coolidge  
10 and John Turk, all pleadings and papers on files in this action, and upon such other matters as  
11 may be presented to the Court at the time of the hearing.

12 Respectfully submitted

13 DATED: February 27, 2008

JAMES ATTRIDGE

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16 By: /s/ James Attridge  
17 JAMES ATTRIDGE  
18 Attorney for Plaintiff  
19 ONEBEACON INSURANCE COMPANY  
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